IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1446 OF 2005

Sachin Nilkanth Patil. ... Petitioner

Versus.

The State of Maharashtra & ors. ... Respondents.

Shri Abhaykumar Apte for the Petitioner.

Ms.Rajashree Gadhvi, A.P.P. for the Respondents.

CORAM : ABHAY S. OKA, J.

DATED : 18th August, 2005.

P.C.:

1. By order dated 4th July 2005, Rule was issued and the Petition was kept for final hearing today. The challenge in this petition is to the order of externment passed by the Respondent No.3 against the Petitioner and the confirmation thereof in Appeal by the State Government.

2. Only one submission is made by the learned Counsel appearing for the Petitioner. He invited my attention to the show cause notice dated 14th July 2004 issued to the Petitioner. In the said show cause notice, it was mentioned that the authorities were intending to pass an order of externment against the Petitioners in so far as Pune City and Pune Rural District areconcerned. He submitted that while passing the order of externment on the basis of the said show cause notice, the Respondent No.3 has directed that the order of externment will

apply to Pune City, Pune, Raigad, Ahmednagar and Satara Districts. He submitted that the order of externment is excessive.

3. The learned A.P.P. supported the impugned order by pointing out the various offences registered against the Petitioner and submitted that no interference was required with the subjective satisfaction of the authorities.

4. I have considered the submissions. The show cause notice clearly records that the authorities were proposing to pass order of externment against the Petitioner relating to the area falling in Pune City and Pune Rural District. The show cause notice refers to the prejudicial activities of the Petitioner within the limits of the area falling in jurisdiction of Nigdi Police Station, Ganganagar, Akurdi, Vithalwadi, Duttawadi, Nigdi, Chinchwad, and Pune Mumbai Road and city and its suburbs. While passing the order of externment, it is directed that the Petitioner has been externed for a period of two years from the area falling within with jurisdiction of the Commissioner of Police, Pune and the Districts of Pune, Ratnagiri, Ahmednagar and Satara. Thus the order of externment is clearly excessive. The very object of issuing the show cause notice is to give an opportunity to the person affected to show cause against the proposed action. However, the

show cause notice does not refer to the Ratnagiri, Ahmednagar, Satara districts. In my view, the impugned order deserves to be quashed and set aside only on the ground that the same is excessive. It is well settled law that an excessive order cannot be corrected by the High Court in exercise of jurisdiction under Articles 226 and 227 of the Constitution of India.

5. Hence the following order is passed:

(i) Rule is made absolute in terms of prayer clause (a).

(ii) Parties to act on an authenticated copy of this order.

Judge.